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# Security Council

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New York

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| *President:* | Mr. Baja | (Philippines) |
| *Members:* | Algeria | Mr. Benmehidi |
| | Angola | Mr. Constantino |
| | Benin | Ms. Elisha |
| | Brazil | Mr. Valle |
| | Chile | Mr. Zalaquett |
| | China | Mr. Jiang Jiang |
| | France | Mrs. D'Achon |
| | Germany | Mr. Kuechle |
| | Pakistan | Mr. Khalid |
| | Romania | Mr. Stamate |
| | Russian Federation | Mr. Nikiforov |
| | Spain | Mr. De Palacio España |
| | United Kingdom of Great Britain and Northern Ireland | Mr. Lake |
| | United States of America | Mr. Weinberg |

## Agenda

Protection of civilians in armed conflict

Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict (S/2004/431)

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04-38811 (E)

*The meeting was resumed at 3.15 p.m.*

**The President**: As stated this morning, in order to optimize the use of our time, I will not individually invite speakers to take seats at the Council table. When a speaker is taking the floor, the Conference Officer will seat the next speaker on the list at the table.

I give the floor to the representative of Fiji.

**Mr. Savua** (Fiji): We join others in congratulating you, Sir, on your assumption of the presidency of the Security Council for June.

We accept the fact that civilians are more vulnerable than ever before in the current cycle of violence and that this trend, despite all the efforts made thus far, shows no immediate sign of reversing itself, the call for decisive action is therefore timely and appropriate.

We would also like to thank the Secretary-General for his report (S/2004/431), which clearly shows that, despite some initial successes, there is stark and disturbing evidence of the extent to which civilians are still suffering because of war, with too many instances of civilians being subjected to extreme violence or denied humanitarian aid.

Fiji totally supports the Secretary-General's assessment that emphasizing the regional dimension of civilian protection is the most effective way to deal with cross-border issues such as human trafficking and the illegal flow of arms. Regional efforts in the area of security and peacekeeping have been not only an effective supplement to United Nations programmes but also an effective means of ensuring local participation and collaboration on important security and development issues. Greater support should be accorded to regional initiatives, with the intention of strengthening such arrangements and encouraging them to be more proactive in every respect.

The growing involvement of non-State actors in the changing nature of war has seen a commensurate increase in the number of civilians becoming deliberate targets and in the use of the young as child soldiers and of civilians as shields. Modern warfare has become less and less a confrontation between professional armies, and more and more a street and suburban battle between military personnel and civilian rebels of the same country, or internal conflicts between civilian factions. These unconventional battles have no defined boundaries, and are unorthodox in nature and extremely deadly. As a result, distinctions between combatants and non-combatants are faint, and respect for the law is basically non-existent.

Recent attacks on United Nations personnel, including against its headquarters in Baghdad, are clear evidence of the increasingly fragile environment to which humanitarian personnel are exposed — one in which there are no security guarantees whatsoever. The United Nations and the international community must continue to express their abhorrence for such attacks and to condemn them as acts of cowardice and arrogance.

As a small island developing country, Fiji is also concerned that more wars and conflicts are being fought in poor and developing States, with women and children being the main casualties. Apart from the direct threat that this poses to international peace and security, the impact on the sustainable development agenda for small developing countries is enormous. More resources and energy are being devoted to conflict resolution and peacemaking. In addition, the lifelong effects of the traumatic experiences of victims are often impediments to development and growth.

Every effort must be made to mainstream civilian protection issues into United Nations programmes, peacekeeping mandates and operations, and the policies of Member States. These should include provisions in the aide-memoire for reporting human rights abuses, together with disarmament issues and small-arms proliferation, and special measures to protect women and girls from rape and other violence. Mainstreaming capacity-building by the United Nations and Member States would ensure that efforts in that regard would bear fruit. Member States, through their local branches of Government, United Nations agencies and non-governmental organizations, at the national and local levels, can help bridge the divide.

Member States are to be encouraged to sign and ratify the legal instruments that exist in the framework of the broad protection agenda. Warring factions must comply fully with the provisions of the United Nations Charter and the rules and principles of international law. The United Nations has an important advocacy role in that regard. A culture of protection can be achieved only if an appropriate level of coordination is attained.

Recent events have given us a rude awakening, painting a stark picture of the realities faced by

civilians and the United Nations in contemporary armed conflict and the challenges these present to the international community. It is time to act, and act decisively. Unless a systematic and integrated approach is taken to the prevention of conflict, the promotion of a culture of respect for human rights, and the eradication of impunity, the global culture of protection of civilians that has been called for will remain a distant ideal.

**The President**: I give the floor to the representative of Switzerland.

**Mr. Helg** (Switzerland) (*spoke in French*): My delegation thanks Mr. Egeland for his excellent presentation and notes with satisfaction the high quality of the report submitted by the Secretary-General. That document contains specific and realistic proposals which, if implemented, could decisively improve the level of protection for civilian populations in the 10 priority areas identified by the Emergency Relief Coordinator. While recognizing that all these challenges are priority issues, permit me to deal in greater detail only with some of them here.

First of all, the importance of respect for law needs to be stressed. Protection of the civilian population — whether it be in armed conflicts, in transitional situations or in the fight against terrorism — is based primarily on respect for international humanitarian law, human rights law and refugee law. Respecting those laws and ensuring that they are respected involves informing the different actors, raising their awareness and making them responsible. Those actors include States — particularly their armed forces and police — but also non-State armed groups. Switzerland must also reiterate that the fundamental humanitarian principles of impartiality, neutrality and independence apply in all circumstances. Respect for those principles is an essential condition for guaranteeing sufficient scope for humanitarian action, both within and outside the United Nations system.

The second challenge is the need to fight impunity at both the national and international levels. In that context, Switzerland emphasizes the importance of the International Criminal Court and invites the Security Council to strengthen its commitment in that area by following up on the proposals formulated by the Secretary-General. Furthermore, in order to prevent crisis situations, Switzerland invites the Security Council to make greater use of the tools of observation and fact-finding missions.

The third challenge is the illicit trade in small arms and light weapons and its effects on civilian populations. Today, the Open-ended Working Group to Negotiate an International Instrument to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons began its first substantive session. Switzerland, as Chair of the Working Group, encourages all United Nations Members to participate constructively in the elaboration of a new international instrument to identify and trace small arms and light weapons in a timely and reliable manner. Such an instrument would enable States to fight the illicit trade in such weapons and thus help to improve the protection of civilian populations.

Fourthly, the effects of armed conflicts on women — particularly the use of sexual violence as a military weapon — deserve greater attention on the part of the international community. Although significant efforts have already been undertaken, we need to develop additional protective measures. Moreover, we believe it is essential to strengthen the role of women in the search for and implementation of peaceful solutions to conflicts. Switzerland plans to hold an international conference on that subject in Geneva in November 2004 with the objective of effectively supporting the strengthening of civil society networks and initiatives, which we know to be essential for the success of peace processes.

Fifthly, Switzerland is convinced of the relevance of the concept of human security, which aims to make human beings and their dignity the central focus of the international community. That concept has the merit of bringing together different approaches and thus enables us to define multidimensional protection strategies.

In conclusion, Switzerland reaffirms its resolve to work for the protection of civilian populations. We shall continue our close cooperation with United Nations emergency relief mechanisms, particularly by making our expertise available. In addition, we support the efforts of the United Nations Emergency Relief Coordinator to improve the collection, handling and dissemination of data on the effects of conflicts on the protection of civilians. We look forward to hearing more about the enhanced framework announced in the report of the Secretary-General.

**Mr. Butagira** (Uganda): I thank you, Mr. President, and, through you, the members of the Security Council for organizing an open debate on this important topic. Such a dialogue with non-members of the Security Council augurs well for good cooperation among various organs of the United Nations and is to be encouraged.

The protection of civilians in armed conflict goes to the root of why the United Nations is there in the first place: to advance respect for the rule of law, including humanitarian law, and for human rights. The obligation to protect, therefore, is not an option; it must be carried out. Otherwise, the need for existence of the United Nations becomes irrelevant.

I must commend the Secretary-General for his excellent report on this subject (S/2004/431); it highlights the problems and charts a way forward. I also thank Mr. Egeland, Under-Secretary-General for Humanitarian Affairs, for his briefing this morning, which calls for urgent action on the part of States and the international community to protect civilians in armed conflict.

The fate suffered by civilians caught in armed conflict is well known. Young girls and women have been raped and, in some cases, infected with AIDS; homes and properties have been destroyed; and entire populations have been displaced. In Uganda, the so-called Lord's Resistance Army — a rebel group led by the diabolical Kony — has wreaked havoc in northern Uganda, killing, maiming, abducting and raping women and girls. Rather than indulging in lamentations, it is time that we take concrete actions against those bandits.

First of all, the terrorist groups that have committed such atrocities should not go unpunished. Uganda is pleased that the Security Council, in a presidential statement dated 16 April 2004, emphasized that the crimes — such as abduction, sexual violence and sexual exploitation — committed by those terrorists should not go unpunished. We applaud the suggestion made by the Secretary-General in his report to the effect that amnesty should not be extended to those who have committed serious violations of international humanitarian law and criminal law.

The international community, however, should not be apologetic. To refrain from calling these bandits "terrorists" for fear that that would have an adverse impact on opportunities for humanitarian negotiations would be to give legitimacy to such groups. Terrorists should be ostracized, denied sanctuary and hunted down by the international community. All States should cooperate in that endeavour. Notwithstanding our stand on hunting down the terrorists in our country and eliminating them militarily, Uganda has extended an offer to Kony and his band of terrorists to engage in peace talks. To date, there has been no response from them. In the meantime, the Government of Uganda has put into place measures to protect civilians both within and outside displaced persons' camps in northern Uganda by having a robust presence of Ugandan armed forces personnel in the area. Humanitarian access is also being ensured.

We welcome the measures undertaken by the United Nations to build into peacekeeping mandates mechanisms for protecting civilians in armed conflict. The international community should respond positively, equally and in a timely fashion to appeals for humanitarian assistance. As the Secretary-General has pointed out, some conflicts have been forgotten, whereas other, high-profile conflicts have elicited a quick response from the international community. I should like to place on record our thanks to humanitarian agencies and the international community, which have provided assistance to the people of northern Uganda who are caught in armed conflict.

There is a question regarding failed States or States that are unwilling to protect their citizens from the scourge of conflict. The question is, should the international community watch as civilians are butchered, maimed and brutalized? There should be an obligation on the part of the international community to intervene and protect those people. The right to protect should transcend the notion of sovereignty. In that respect, we commend the African Union, which has enshrined in its charter the right to intervene in certain circumstances, notwithstanding the issue of sovereignty.

There is also a need to establish good rapport with the Governments of countries where conflicts happen to be found. Everything possible, for instance, should be done to avoid the suspicion that the persons writing reports on those conflicts have some hidden agenda, political or otherwise. For instance, reports on children in conflict in Uganda have lacked some objectivity, as pointed out by us in various communications to the Council. Contrary to the

assertion, for instance, that the Uganda People's Defence Forces (UPDF) recruit child soldiers, the truth of the matter is that UPDF does not recruit children into the army. Besides cooperating with Governments, the relevant United Nations bodies should extend help to regional and subregional organizations dealing with conflicts, such as the Peace and Security Council of the African Union, the Economic Community of West African States, the East African Community, and others.

Lastly, the United Nations, through the Security Council and in cooperation with the various actors, should formulate and put in place measures, such as early warning mechanisms, poverty eradication and good governance, that would prevent conflicts from occurring in the first place.

**The President**: I call next on the representative of Ukraine.

**Mr. Kuchinsky** (Ukraine): Ukraine highly commends the initiative of your country, Mr. President, to hold this important debate on how to improve the protection of war-affected civilians. I would also like to thank Mr. Jan Egeland for his very informative briefing to the Security Council as Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator.

During the past five years, the Security Council has increasingly focused its attention on the situation of civilians in armed conflict. The fourth report of the Secretary-General on this problem (S/2004/431) is under consideration by the Council today. The situations in the Democratic Republic of the Congo, Iraq, Afghanistan, the Middle East, West and Central Africa and other regions of the world only compel us to concentrate on what was done during all those years to better protect vulnerable civilians and on what is to be done for further improvement of our collective actions in this regard.

True, we have witnessed a certain progress in the sphere of the protection of civilians. But we have also witnessed many lives of innocent civilians lost on the way, as well as many lives of those who served to ensure a better present and a better future for them. Unfortunately, there is still a lack of political will and of willingness by parties to conflicts to improve all relevant international instruments or indeed to implement existing ones. Therefore, there is an urgent need for the continued engagement of the international community in order to ensure that civilians are not deprived of their rights.

We welcome the fact that since the adoption of Security Council resolution 1296 (2000) the mandates of major peacekeeping operations have been broadened to include physical protection of civilians under imminent threat of violence. The inclusion in peacekeeping mandates of such elements as the disarmament, demobilization, reintegration and rehabilitation of combatants, as well as of measures to protect refugees and returnees is, in our view, an important step towards achieving the goal of protecting the rights of civilians.

In our view, these concerns should be addressed on a systematic basis. In that regard, the revised aide-memoire adopted by the Security Council last year (S/PRST/2003/27, annex) has become a practical tool that provides a basis for the analysis and diagnosis of key issues that arise out of conflict. We also note with satisfaction the ongoing work on the elaboration of the road map based on the 10 points raised by the Secretary-General in his report.

Turning to those specific problems, I would like to touch upon some of them that, in our view, are crucially important. First, we think that humanitarian assistance does much to improve the protection of civilian populations and the prospects for a successful transition to reconciliation. As most conflicts have a transboundary character and impact, the role of regional organizations cannot be overestimated. Those organizations should be involved as soon as possible, and the Security Council should continue to play a proactive role in this sphere. We also consider Security Council missions to be a useful, practical tool in assisting humanitarian access. Further strengthening of cooperation between the Security Council and the Economic and Social Council has, in our view, an important role in areas that are at the heart of peace-building.

Individuals should be protected from crimes against humanity. They are to be protected because these crimes are most often committed in times of armed conflict. The International Criminal Court (ICC) has become a reality aimed at acting effectively in preventing and punishing violations of humanitarian law. Therefore, the potential of the ICC should be given due consideration in countering the impunity of persons responsible for the most serious crimes.

Safeguarding the security of their humanitarian personnel remains a key challenge for the United Nations and its humanitarian partners. The number of losses among United Nations staff and associated personnel is of major concern for Ukraine as a country that has experienced the bitterness of human loss from among its peacekeepers in various United Nations operations. As one of the countries initiators of the 1994 Convention on the Safety of United Nations and Associated Personnel, Ukraine fully supports the ongoing work within the United Nation on the extension of its legal regime and hopes that this will be finished successfully in the near future.

Finally, I would like once again, as my colleagues have done, to underline the importance of the protection of women and children. Since the Council first considered this issue in 1998, a degree of progress has been achieved. However, success in standard-setting must not be cause for complacency. In many regions of the world children and women continue to be the main victims of conflict. Children are killed, orphaned, maimed, abducted, deprived of education and care, recruited and used as child soldiers on a massive scale and left with deep emotional scars and trauma as a result. Women and girls are more and more often directly targeted, being threatened with rape, domestic violence, sexual exploitation, trafficking, sexual humiliation and mutilation. Ukraine continues to advocate for the deployment of child-protection and gender advisers in peacekeeping missions in order to effectively integrate the rights and well-being of women and children into peacekeeping and peace-building processes.

**The President**: I call on the representative of Mexico.

**Mr. Berruga** (Mexico) (*spoke in Spanish*): In Mexico's view, the Security Council should strengthen actions aimed at protecting civilians in armed conflict in three main areas: first, conflict prevention; secondly, promoting a culture of respect for human rights and humanitarian norms; and thirdly, ending impunity by establishing or using mechanisms that ensure full compliance with the rule of law. In that regard, the report of the Secretary-General (S/2004/431) is an excellent contribution, enabling the Council to bear in mind the humanitarian aspect.

My delegation notes with concern that civilians continue to be the most seriously affected sector in armed conflicts, and that in many cases they have represented a disproportionately high number of the dead and wounded; this could have and should have been avoided, as they do not take part in hostilities. Civilians have also been subjected to torture and other grave violations of human rights and international humanitarian law.

Mexico reaffirms the need for the Security Council to send a clear, strong message to all parties to armed conflicts, whether or not they are regular armed groups as defined by the Additional Protocol II of the Geneva Conventions. In this regard, we reaffirm the following: first, the Geneva Conventions are fully valid and must be complied with under all circumstances, and the Martens Clause has become obligatory, as established by the International Court of Justice; secondly, civilians do not constitute a legitimate target; thirdly, deliberate attacks directed against them cannot be tolerated; and fourthly, parties to a conflict have to take all possible measures to limit the suffering of and damage to civilians.

It is not enough for States to sign and ratify the conventions related to parties' obligations and civilians' rights contained in the normative body of international humanitarian law relative to conflict situations if they do not fully comply with the obligations they contain.

With that in mind, a seminar on the protection of civilians in armed conflict for the Latin American region was held from 16 to 18 March 2004 in Mexico. Experts from the region analysed issues such as the protection of civilians in complex emergencies, the role of various parties in protecting civilians, challenges in protecting civilians in complex situations, strengthening the protection of civilians during the transition from conflict to peace and the creation of a culture of protection. Like many other regions, Latin America is affected by domestic armed conflicts or by violent situations which do not qualify as armed conflicts. In both situations, civilians are the targets of indiscriminate attacks and are very vulnerable.

This is why the State's capacity to establish preventive mechanisms is fundamental. It is imperative to formulate strategies to promote the inclusion of humanitarian issues in the political agenda and to implement national legislation granting a framework of legal protection for civilians in violent situations.

It is equally important to ensure unconditional respect for common article 3 of the four Geneva Conventions, which relates to the protection of civilians in armed conflicts not of an international character, as well as the parallel struggle to eliminate weapons trafficking and the use of anti-personnel mines.

In addition, Mexico reiterates the importance of a greater exchange among the principal organs of the Organization, particularly the General Assembly and the Security Council, as well as linking the distinct tasks of the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme and the Special Representative of the Secretary-General for Children and Armed Conflict.

We welcomed the issuance of the Secretary-General's bulletin on "Special measures for protection from sexual exploitation and sexual abuse" (ST/SGB/2003/13) as a positive measure. Nevertheless, to our great concern, cases of abuse are still occurring. We call upon the Secretary-General and the directors of the programmes and agencies that provide humanitarian assistance to comply fully with those special measures and to adopt further strong measures to put an end those practices and to punish those responsible.

States must bring to justice those responsible for grave violations of international law, in particular international humanitarian law. The International Criminal Court has a fundamental role to play, always fully adhering to the principle of complementarity that gives priority to national jurisdictions. States have an obligation to respond firmly to terrorist acts, but they have to do so based on the values upheld by the United Nations Charter. Bearing that in mind, my country has promoted the adoption of a General Assembly resolution on the protection of human rights and fundamental freedoms in the fight against terrorism.

Denying or blocking the delivery of humanitarian assistance to civilians and persons not involved in combat constitutes a war crime under the Geneva Conventions and their Additional Protocols. Access by humanitarian personnel to people in need of assistance, in particular the most vulnerable, such as refugees and displaced persons, must be guaranteed.

We are concerned by the growing tendency to undervalue humanitarian principles and to deliberately attack humanitarian workers. The Rome Statute of the International Criminal Court has already classified such acts as war crimes. That concern pushed Mexico to submit to the Security Council resolution 1502 (2003) on the protection of humanitarian personnel, which was adopted unanimously. By its paragraph 6, the Council

> "[requests] the Secretary-General to address in all his country-specific situation reports, the issue of the safety and security of humanitarian personnel and United Nations and its associated personnel, including specific acts of violence against such personnel, remedial actions taken to prevent similar incidents and actions taken to identify and hold accountable those who commit such acts, and to explore and propose additional ways and means to enhance the safety and security of such personnel".

Nevertheless, States parties to the Geneva Conventions and their Additional Protocols have to assume their responsibility to respect and to ensure respect for international humanitarian law. In this regard, the use of meetings of States parties, planned in article 7 of Additional Protocol I, should be encouraged as a mechanism for guaranteeing full compliance with the inviolable norms that are the essence of international humanitarian law.

**The President**: I now give the floor to the representative of Egypt.

**Mr. Aboul Gheit** (Egypt) (*spoke in Arabic*): We too wish to thank you, Mr. President, for arranging today's open Council debate on this important issue.

In this regard, the delegation of Egypt wishes to make a number of observations. First, we note the ongoing development of the nature of armed conflicts, whether domestic or international. The main features of today's conflicts are the targeting of civilians, the obstruction of humanitarian assistance and an increase in the number of factions, parties and other elements in conflicts. In armed conflicts, the presence of armed groups, militias, military contractors and terrorist organizations obliges the international community to closely study the situation and to consider mechanisms to provide and strengthen the protection of civilians. The international community should give priority consideration to agreeing on an international approach to dealing with these developments.

Secondly, it is our view that an important reason for increased civilian suffering in conflict situations is the parties' lack of compliance with the provisions of international humanitarian law, most important the Geneva Conventions and their two Additional Protocols. These are an integral part of international humanitarian law, since they define the internationally agreed framework for dealing with civilians in armed conflict and under occupation. We agree with the most recent report of the Secretary-General (S/2004/431), which states that during the last 18 months, the very fundamentals of international humanitarian law and human rights have been under great pressure. We also share his concern that counter-terrorism measures have not always complied with human rights obligations. Obviously, this reflects negatively not only on the counter-terrorism strategy, but also on the situation of international humanitarian law and human rights. This poses a great threat to the international ethical system.

Thirdly, we call on the international community to give special attention to what the Secretary-General's report calls a culture of impunity, which only encourages increased violence and crime and contributes to the intensification of conflicts and the destabilization of international peace and security. The ongoing change in the nature of armed conflicts must not promote impunity for armed groups and other parties, such as mercenaries and military or civilian contractors, who cannot be allowed to evade responsibility before the competent courts.

Fourthly, the Secretary-General's report addresses, inter alia, the situation in the occupied Palestinian territories. A closer look into the situation there reveals it to be a very vivid and glaring example of the suffering of civilians in one of the world's most protracted armed conflicts. Three and a half million people are there subject almost daily to military operations targeting civilians, inflicting extreme violence and murder and denying them basic humanitarian assistance. Their needs have become even more acute since construction began on the separation wall inside the occupied West Bank, as the Secretary-General's report notes, with

> "a profound humanitarian impact on civilians by separating Palestinian communities from their land, jobs and markets and severely limiting their access to food, water and power supplies and essential social services, including schools and hospitals". (*S/2004/431, para. 18*)

We must acknowledge that, despite the United Nations previous successful demonstrations of its competence effectively to intervene to protect civilians in the Balkans, Timor-Leste, Sierra Leone and elsewhere, daily life for the Palestinian people is clear evidence of the incompetence and inability of the international community and the Organization to protect civilians under military occupation.

Fifthly, we concur with the Secretary-General's vision, laid out in the concluding observations of his report, emphasizing the need for the international community to

> "recommit itself to the principles of international law based on justice, peaceful settlement of disputes and respect for human dignity. These principles impose necessary limits on violence and on permissible behaviour in conflicts and set minimum standards for treatment to which people are entitled as human beings. It is from these agreed standards that the United Nations framework for the protection of civilians in armed conflict has arisen and evolved". (*ibid., para. 61*)

**The President**: The next speaker is the representative of Argentina.

**Mr. Mayoral** (Argentina) (*spoke in Spanish*): My delegation wishes to thank you, Sir, for your initiative in calling for this debate on the protection of civilians in armed conflict. We also thank the Secretary-General for submitting his fourth report on this matter, which contains a complete overview on the progress achieved and the ongoing shortfalls in the protection of civilians in armed conflict.

Before commenting on the Secretary-General's report, I wish to affirm that my country attaches fundamental importance to respect for international humanitarian law, which is a matter of concern to all States signatories to the Geneva Conventions and their Protocols. In the current circumstances, it is essential to recall once again that no security issue trumps the primary obligation of all States to comply with those basic norms. The obligation to respect the civilian population within the framework of international humanitarian law also extends to other non-State actors that aspire to international legitimacy, whatever the justice of their claims might be.

We also believe that the fight against terrorism, a priority of the international community which my

country shares, should be carried out in full respect for international human rights law. Regrettably, reports have recently come to light of activities undertaken in increasing contravention of such respect, and my country certainly supports the cooperation of this Council with the High Commissioner for Human Rights in order to promote respect at all times for rights that cannot be derogated.

Argentina joins its voice with those in the international community that have tirelessly expressed their deep concern at the evidence that it is civilians who are still the most affected by armed conflict. Violations of international humanitarian law and international human rights, sexual violence as a weapon of coercion and war, and the forceful displacement of populations are the unfortunate results of national and international conflicts.

We recall that the Security Council has been developing a normative framework to address this problem and has expressed interest in the 10-point platform in order to put it into practice. Moreover, the Secretary-General has highlighted some progress made in the implementation of the Council's resolutions on the protection of civilians, such as cooperation with regional and subregional organizations. Specific areas exist within a conflict in which action can be undertaken regionally, such as the issue of refugees, the illegal trade in natural resources, smuggling, disarmament or the traffic in small arms. The regional organizations can play a role of great value through their better knowledge of local difficulties and their more realistic perception of the possible solutions. In our American hemisphere, this is what we expect from such regional organizations such as the Organization of American States or the Caribbean Community.

The fight against the impunity of those who commit war crimes, crimes against humanity and genocide has been given decisive momentum by the establishment of the International Criminal Court, the International Criminal Tribunals for Rwanda and the Former Yugoslavia, and the Special Court for Sierra Leone. The Secretary-General has succinctly pointed out that the

> "tragic legacy of Rwanda also underlines the need to ensure that justice is delivered efficiently and expeditiously". (*S/2004/431, para. 40*)

The peace process should address the question of the guilt of those who committed crimes, and we agree with the Secretary-General who, in paragraph 55 of his report, underlines that sustainable peace requires that past atrocities be punished, since impunity can be an even more dangerous recipe for sliding back into conflict.

With respect to the security of United Nations and associated personnel, the panorama continues to look bleak. Since the last report, 27 personnel of the United Nations have died, and there have been hundreds of attacks against United Nations personnel. In that connection, there is also an aberrant trend of attacking United Nations personnel in order to prevent assistance from reaching the civilian population and thus to obtain a political advantage. We trust that the Security Council will take measures so put an end to such acts and increase concrete actions to enhance practical security.

As we have affirmed in previous years, it is necessary to study ways to broaden the range of protection provided by the 1994 Convention on the Safety of United Nations and Associated Personnel and to seek the Convention's universal ratification, which would help improve this grave situation.

In recent days, ongoing restrictions on humanitarian access to the civilian population of Darfur in the Sudan has been the cause of great concern, as the situation threatens to lead to a new catastrophe that could claim hundreds of thousands of innocent lives. We cannot fail to act. The Secretary-General notes that similar situations exist in other regions. We support his appeal to the Council to send missions to conflict zones; to call on Governments to ensure the necessary humanitarian access; and to insist on rapid interventions by regional organizations and neighbouring countries in order effectively to provide those populations with the support they so urgently need.

In conclusion, I have mentioned only a few of the grave issues we face in the area of the protection of civilians. States, which remain the main actors of international action, must renew their commitment to basic legal rules of law and to respect for human dignity. It is a question of political will and self-restraint in the management of existing conflicts. The Security Council and all organs of the United Nations must seriously commit themselves to this task and require all to fulfil their responsibilities and to implement the principles developed by the United Nations, thus ensuring the effective protection of

civilian populations and respect for their essential rights.

**The President**: I now give the floor to the representative of Japan.

**Mr. Haraguchi** (Japan): Mr. President, I commend you on your leadership in convening this open debate on the protection of civilians in armed conflict. I also appreciate the efforts that have been made by the Secretariat in this area, including the ten-point platform it announced and the round-table discussions it has held.

As the concrete examples in the report of the Secretary-General (S/2004/431) make clear, the causes, the parties and the forms of armed conflict that threaten the safety of civilians vary widely. Today we are witnessing an increasing number of internal conflicts caused by a variety of factors, rather than traditional warfare between States. The activities of international criminal organizations and terrorists also threaten the lives of civilians. But whether they too should be considered to be armed conflict is a subject of controversy. Armed conflicts — or more neutrally, situations that pose threats to civilians — are thus very divergent. When we are to engage in negotiations for humanitarian purposes with a party that threatens the safety of civilians, elements that we have to take into consideration are totally different in a case where the party concerned is an anti-government organization with substantial control over a certain portion of the territory and in a case involving what we refer to as a terrorist organization. I therefore believe that, rather than wasting too much time trying to establish general, abstract rules applicable to the protection of civilians in all types of armed conflict, it would probably be more practical and appropriate to identify and collect the practices that have proved to be most effective in protecting civilians in specific armed conflicts.

I hope that the Security Council will give due consideration to such an approach and discuss this issue in terms of the role the Council is supposed to play and its capacity to do so. The Security Council is the organ with the primary responsibility for the maintenance of international peace and security. However, we have to admit frankly that it cannot cope with all the situations in which the lives and the safety of civilians are threatened. Effective protection of civilians in armed conflict requires collaboration between the Council and other organs such as the General Assembly and the Economic and Social Council. It is also important for the Council to collaborate with all relevant international organizations active in the field. In his report, the Secretary-General repeatedly affirms the necessity of the regional approach and the importance of the role regional organizations can play in the protection of civilians. My country shares his view.

I would now like to comment on the ten-point platform in Secretary-General's report. Due to time constraints, however, I shall limit my comments to four specific points of particular interest to Japan.

First, it is quite obvious that the security of humanitarian personnel is essential for the smooth implementation of humanitarian assistance activities. In principle, their neutral posture should ensure their security. Recently, however, there have been deliberate attacks on humanitarian personnel, and we are deeply concerned. We support the inclusion of the protection of humanitarian personnel in the mandates of peacekeeping operations so that the objectives of humanitarian assistance activities can be achieved. It is not clear, though, who bears the responsibility for the security of humanitarian personnel in areas where peacekeeping troops are deployed. Is it the Office of the United Nations Security Coordinator or the Department of Peacekeeping Operations? Japan expects that a comprehensive solution will be presented in the Secretary-General's report on the security of United Nations personnel to be submitted to the General Assembly at its fifty-ninth session.

I do not have a wonder drug to ensure the security of humanitarian personnel. However, at the least, it is necessary for the international community to reaffirm its united support for humanitarian assistance activities and strongly condemn any attack that threatens the security of humanitarian personnel. We should also reaffirm such basic principles as impartiality and independence, which humanitarian personnel must observe so that they will not be regarded as agents of certain members of the international community. As far as legal measures are concerned, Japan supports the idea of expanding the scope of the Convention on the Safety of United Nations and Associated Personnel.

Secondly, due to the uncontrolled circulation of small arms and light weapons, the harm that is being done to civilians in armed conflict has become markedly more severe. Stricter controls are very much

needed. In 2001, the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects was adopted. We believe that it is necessary not only to raise awareness of small-arms issues in the international community but also to take real action in the affected areas. It is therefore crucial for the international community to strive towards the steady implementation of the Programme of Action.

Japan also considers it necessary to strengthen the Security Council's monitoring of breaches of arms embargoes. We therefore welcome the fact that a group charged with monitoring the arms embargo on Somalia was established in January of this year. We hope that the Security Council will consider establishing new groups of a similar nature as necessary, as well as strengthening the work of those already in operation.

Japan also supports the strengthened efforts being made by the Department for Disarmament Affairs, including the Coordinating Action on Small Arms. The Security Council should also engage in an exchange of views with the Department for Disarmament Affairs and make full use of its expertise. For its part, Japan, with a view to consolidating peace, is implementing projects which link the collection of small arms and light weapons with development in Cambodia and in other countries. We believe that they are effective in removing the incentive to possess such weapons.

Thirdly, the reintegration of refugees and of internally displaced persons is an important element in the protection of civilians in armed conflict. For them, safe return is only the first step towards reintegration. In order to avert a situation in which such persons are obliged to become refugees and internally displaced persons once again, and in order to achieve a durable solution, efforts must be made to ensure that they are accepted as integral members of a local community and that they play a role in its reconstruction. Thus, a seamless transition from humanitarian assistance to reconstruction is extremely important. Japan accordingly welcomes the holding of an Economic and Social Council event on transition.

Fourthly, Japan attaches great importance to disarmament, demobilization, reintegration and rehabilitation from the standpoint of the consolidation of peace, and it understands the important linkage between such peace-building activities and peacekeeping operations. However, peacekeeping activities should not be expanded without limitation in the name of peace-building. Peace-building should lead to reconstruction and development. It requires expertise which is different from that required for peacekeeping. It is desirable that the authority of a Special Representative of the Secretary-General should be of a coordinating nature.

In its final section, the Secretary-General's report touches on the relationship between the protection of civilians and peace processes. It is also very important to work to prevent the outbreak or recurrence of armed conflict in order to ensure the effective protection of civilians. In that connection, Japan would stress the importance of human security, which promotes the protection and empowerment of individuals through assistance such as the Trust Fund for Human Security.

A ceasefire agreement is but a first step towards a lasting peace. A society impoverished by armed conflict remains in a precarious state. It stands at the crossroads between peace and national rebirth on the one hand, and a return to armed conflict on the other. Under such circumstances, promoting human security can enable such a society to move forward on the road towards peace and robust national reconstruction. Japan therefore hopes that the concept of human security will be further mainstreamed in the United Nations system.

**Mr. Rivas** (Colombia) (*spoke in Spanish*): Allow me to begin by congratulating you, Sir, on your assumption of the presidency of the Security Council this month. I should also like to thank the Secretary-General for his report on the protection of civilians in armed conflict, and Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs, for his presentation on the item under consideration in this open debate of the Security Council.

The Government of Colombia would like to reiterate what it said on 9 December 2003, when the Security Council last discussed this item. The democratic security policy of Colombian President Alvaro Uribe has demonstrated that strengthening the rule of law and democratic institutions helps to increase security for the people and thereby shrinks the area available for illegal actors. Hence, the Colombian people are strongly supportive of their Government.

The international community has not yet found an effective way of combating terrorism, drug trafficking, trafficking in small arms, or trafficking in human

beings — to mention but a few of the ill deeds perpetrated by organized crime against civilians throughout the world. We believe that the best way to stop such transnational crime is to strengthen the States and their democratic institutions, with robust cooperation and solidarity on the part of the international community. The United Nations and its agencies, whose fundamental goal is to achieve a just and lasting peace in the world, must play a very important role in providing solidarity and support to Member States as they fight against those crimes that affect primarily the civilian population.

For that reason, the Government of Colombia regards as essential the Organization's work in protecting civilians in armed conflict. We acknowledge the Secretary-General's firm commitment to that goal, and we take note of the report before us, understanding that the report was prepared in good faith and with an awareness of the imperative need to provide humanitarian assistance to people in need. But there are some proposals, which theoretically are appropriate, that could in practice backfire and further weaken already fragile States as well as seriously undermine their ability to protect their civilians in conflict.

Implementation of such proposals could even end up arming terrorist and drug-trafficking organizations, as well as networks that are involved in the trafficking of human beings, particularly children and women. The democratic institutions of States that have legally elected Governments could be seriously affected by such proposals. For that reason, the Security Council and its member States have the very heavy responsibility of tackling these matters cautiously and with prudence, not only concerning this particular issue, but in all the thematic debates, including actions that it intends to pursue.

With regard to the report before the Council, I wish to point out that some of its proposals could give rise to vicious circles of violence and suffering instead of helping to protect civilian populations in armed conflicts. The legitimate concern of ensuring access to vulnerable populations can be effectively met through strict compliance with the Geneva Conventions and their Additional Protocols and through strict implementation of General Assembly resolution 46/182, which provided the Office for the Coordination of Humanitarian Affairs with its mandate.

Innovations that do not respect the guiding principles of humanitarian assistance — humanity, neutrality and impartiality — and that, for the sake of pragmatic negotiation, disregard the non-negotiable nature of the principles of international humanitarian law, as well as innovations that politicize humanitarian assistance, create vicious circles of suffering for the civilian population, whose problems they are supposed to alleviate. Negotiating with terrorist, drug-trafficking or criminal organizations to gain access to a specific population not only legitimizes such organizations, but also helps them to shield their operations with the weight of legality and the rule of law, thus promoting their dark military, strategic and economic objectives. The excuse of collaborating with humanitarian operations to gain political and tactical benefits that protect their illicit businesses is a vile deception carried out by these criminal organizations to protect their activities and to intensify the war that they have declared on the civilian population.

Therefore, we must be extremely careful that legitimate concerns about humanitarian access do not end up threatening legitimate Governments, interfering in internal affairs or violating fundamental purposes and principles of the Charter of the United Nations. That applies even more in situations where Governments are working hand in hand with their societies and enjoy immense popular support, and where the majority of the people, after a number of decades, are beginning to receive the benefits of policies undertaken in the fight against those who threaten and affect their very existence.

Humanitarian organizations, the United Nations and all Member States must bear in mind the dangers involved in acting precipitously on such matters. Rather, we must intensify our support for and our cooperation with the legitimate authorities of the States affected in the difficult task of overcoming violence and conflict. We must be fully aware that the very dynamic of illegal armed organizations consists of violating the law and international humanitarian law. That is part of their essence and of their nature as illegal entities.

That is why the Government of Colombia has expressed its concern about dialogues not authorized by the Government of the concerned State with illegal armed groups, even if such dialogues have a commendable purpose. In my Government's view, that involves — in addition to what I just pointed out —

jeopardizing the security of humanitarian personnel, because many of these armed groups repeatedly violate their agreements, and, just as they do not respect international humanitarian law, they do not respect the treaty immunities of United Nations personnel and assets. Therefore, the position of the people and the Government of Colombia on such dialogue is clear: the commitments imposed by international humanitarian law must be honoured, but never negotiated. The tranquillity and peace of the world depend to a great extent on such clarity and rectitude.

Moreover, only Governments can enter into political negotiations. When humanitarian groups enter into political negotiations with illegal armed groups, they are not conforming to the basic principles of humanitarian work — neutrality, impartiality and transparency — and are giving such illegal armed groups an undue status that tends to put them on an equal footing with legitimate democratic Governments.

We reaffirm our conviction that the only effective way of protecting the whole population is to put an end to armed conflicts. That is why the Colombian Government has requested the Secretary-General to use his good offices to urge the illegal armed groups operating in Colombia to immediately cease hostilities, thus creating room for negotiations to find a peaceful solution to the country's problems of violence. Then the United Nations will have the principal duty of demanding and supporting procedures to carry out that intention.

The best way of ensuring adequate protection for civilians threatened by illegal armed groups is — as I said — to restore the democratic State's legitimate authority, ensuring territorial control on the part of the institutional armed forces. Colombia is a clear example. Since the current Government was established, the numbers of displacements, massacres and attacks against population centres have dropped significantly. Thus, between 2002 and 2003, the forced displacement of persons decreased 48 per cent, massacres decreased 37 per cent and attacks against population centres decreased 80 per cent. The threat of a humanitarian crisis has been contained. That shows that the Government of Colombia must be the principal ally and interlocutor of the United Nations in assisting civilians at risk. To that end, we are fully prepared to ensure the launching of relevant programmes.

The statements about my country in paragraph 41 of the Secretary-General's report are inaccurate, and we do not understand the reasons for them. The President of Colombia has often referred to our nation's willingness to work with the United Nations in various scenarios. The Under-Secretary-General for Humanitarian Affairs recently visited the country, a visit which was called "fruitful" by the Secretariat because of agreement on strengthening cooperation between the United Nations and the Government of Colombia to assist victims of the conflict. A coordinated focus was also established to examine and resolve items related to humanitarian access to civilian populations in need. This was done because access to assist victims of strikes by illegal armed groups is very different from access to carry out dialogue with such groups. We must be clear about the fact that displacement is part of the military strategy of these illegal armed groups, which they use for multiple reasons, including to establish contacts with international bodies and align themselves with them in order to enhance their political status, without putting an end to their strategy of forced displacement or artificial displacement.

It is also important to point out that in the Colombian situation illegal armed groups maintain a territorial presence in some areas of the country, but do not dominate them; this reaffirms the inappropriateness of establishing dialogue to achieve humanitarian access under the misleading argument that such groups exercise territorial control.

Also surprising is the statement in paragraph 41, according to which there is an adverse impact on humanitarian efforts when non-State armed actors are designated as terrorist groups. It is the international community that so labels them, not a whim of our Government. Today, terrorism is a clearly defined phenomenon, whose devastating effects are all too well known worldwide; hence the global commitment to decisively fight that scourge, strictly observing international humanitarian law and human rights. Appeasing terrorists would run counter to current history.

Finally, we do not think it is for the United Nations to certify some sort of "good conduct" on the part of terrorist, drug trafficking or organized crime groups for the purpose of engaging in future peace negotiations. That would reinforce the idea that violence against the civilian population pays and contributes benefits so long as certain minimum requirements are met to allow humanitarian assistance.

What is right and what our Government expects is decisive United Nations support for the legitimate efforts of democratic Governments to end terrorism, resolve their conflicts and restore peace.

**The President**: I call next on the representative of Canada.

**Mr. Rock** (Canada): I have the honour today of speaking on behalf of Canada, Australia and New Zealand. I first want to thank the Philippines for hosting this open debate, and to thank as well the Secretary-General and the Emergency Relief Coordinator for their candid and compelling reports on this subject of enormous importance.

I will devote my remarks today primarily to the Security Council's role in protecting civilians in armed conflict. The record shows that over the past five years, the Council has made critical strides in adopting a range of measures that recognize the complex nature of contemporary conflict and the fact that the plight of civilians must be effectively addressed as part of any comprehensive international response.

However, despite that progress, the international community has in past months witnessed the deliberate targeting, displacement and abuse of civilians by parties to more than two dozen conflicts, all displaying a shocking disregard for international human rights and humanitarian law. We have also witnessed the abuse of those no longer taking active part in hostilities. Recent experience has also demonstrated that peace agreements do not, in and of themselves, provide sufficient protection to civilian populations.

In December 2003, the Council (see S/PRST/2003/27) reaffirmed its central commitment to civilian protection and asserted its intent to use the aide-memoire and the 10-point plan then before it to make Council responses more effective in this regard. Today's debate affords the first opportunity to measure the Council's actions against that pledge. Regrettably, we can only conclude that a significant gap remains between Council commitments and concrete action. Let me identify four examples.

First, we note that lack of access and lack of security remain the greatest obstacles to effective humanitarian action — obstacles that, at least in part, the Council has the authority to publicly recognize. The Council and the General Assembly have it within their power to declare any country where United Nations and associated staff operate to be at exceptional risk. Such a decision would provide those personnel with enhanced legal protections. But even in situations such as that in Afghanistan, where five aid staff working for Médecins sans frontières were recently murdered, a declaration of exceptional risk has not been made, despite the Council's August 2003 commitment (see resolution 1502 (2003)) to make better use of this tool. Accordingly, Canada, Australia and New Zealand urge the Council to make such declarations in appropriate cases.

The second example is the issue of the Council making more frequent use in appropriate cases of powers within its authority to assist efforts on the ground. For example, in West Africa rebels continue to move across borders, and there are difficulties in implementing sustainable disarmament, demobilization, rehabilitation and reintegration programmes. These problems are worsened by the absence of monitoring mechanisms to enforce arms embargoes and by the Council's all too infrequent use of both monitoring and such embargoes to suppress conflict and to sanction those who would seek to benefit from the economy of war.

Thirdly, the Council's failure to systematically condemn widespread instances of sexual and gender-based violence in specific conflicts also means that actions to address such violence, including improved monitoring and reporting and physical protection, remain unsupported.

Fourth, and still more troubling, is the fact that the Council continues to resist responding to conflicts of which it is not formally seized, despite documented evidence in many cases of grave violations of human rights and of humanitarian law. This sends a troubling message with respect to impunity and compliance with international norms.

The situation in Darfur, the Sudan, is a particularly egregious example of that reluctance. On 25 May the Security Council finally adopted a strong presidential statement (S/PRST/2004/18) on the conflict in Darfur, but that was more than five months after aid agencies had begun actively raising the alarm and two months after fact-finding experts of the Commission on Human Rights and the Emergency Relief Coordinator had expressed their gravest concerns. Prior to the statement's adoption, the Council had in fact received only informal briefings on the crisis, and the presence of relevant actors to provide

those briefings was facilitated grudgingly and only after considerable procedural wrangling.

We appreciate that the Security Council is now seized of the situation in Darfur. We hope and expect that the Council will follow up appropriately. In our view, the Security Council should call on the parties to do everything in their power to end war crimes and crimes against humanity committed in that region, to prevent the commission of further crimes and to bring to justice those who are responsible. The Security Council should also call on the parties to the conflict in Darfur to respect international obligations on the protection of civilians in armed conflict, to grant safe and unhindered humanitarian access, to disarm the militias and to ensure the safe and voluntary return of the displaced persons.

In our respectful view, the Security Council has been too slow to respond to the emergency in Darfur. Such inexcusable delays put at risk the lives of those that the Council is charged with protecting. The Council's moral authority is underpinned by its willingness to respond effectively and promptly to threats to international peace and security. To preserve and to enhance that authority, it must demonstrate greater resolve in addressing even sensitive and politically challenging situations. We stress that some of the key tools required for a more effective response are already at the disposal of the Council. We encourage the Secretary-General and the Emergency Relief Coordinator to continue to bring to the Council's attention serious situations that are not on its formal agenda, as was recently done in the case of northern Uganda.

In urging more resolute action, we also hope to prompt more creative efforts. We recognize that not all actions can or should be public. Other measures can be considered, such as discreet Council fact-finding missions and communications between the Council President and the parties to a conflict. Canada, Australia and New Zealand also fully support the graduated approach outlined by the Secretary-General in paragraph 39 of his report. Some existing Council resolutions help identify needed triggers for response. One thinks of paragraph 10 of resolution 1265 (1999) in that regard. We fully believe that the Council can meet these important challenges; the report of the Secretary-General lays out several key recommendations in that regard.

Canada, Australia and New Zealand welcome the attention given in the Secretary-General's report to regional dimensions and responses in the protection of civilians. The creation of a culture of protection requires that norms developed by the Council be adapted to regional realities and be reflected in coherent frameworks for action. My own country, Canada, has therefore been pleased to work with the Office for the Coordination of Humanitarian Affairs in sponsoring regional seminars on the protection of civilians, the most recent of which was held with hemispheric partners in Mexico this past March.

We fully endorse the Secretary-General's call for the Security Council to commission a study aimed at improving the monitoring and reporting of cross-border issues in crisis and post-conflict situations. With reliable data, the Council, in partnership with regional actors, will be better placed to respond in a more effective and timely manner to violence against civilians. A key issue that must be addressed in this context is the presence of armed elements and combatants in refugee camps and settlements and its potential to undermine regional stability. Again, my own country, Canada, was pleased to fund the experts meeting noted in the Secretary-General's report, and we encourage United Nations agencies to bring this issue to the Council for its information and action, when needed.

Regional institutions and mechanisms must also be strengthened and engaged on the protection agenda. In the Pacific, Australia and New Zealand, together with other members of the Pacific Islands Forum, have been active in mounting regional responses to security crises, including most recently in the Solomon Islands. Canada is proud to work with the African Union on the establishment of an African Union special representative for the protection of civilians. The creation of that office opens up the possibility that there will be an engaged and effective African advocate for war-affected populations across the continent. We regard that as an exciting development, and we encourage the Security Council to establish ongoing communication with the new mechanism.

(*spoke in French*)

The Secretary-General has outlined many concrete measures that can be taken to strengthen the Council's ability to respond to threats to civilians in armed conflict. However, tools such as enhanced monitoring are useful only to the extent that the information transmitted is acted on.

Allow me to address the question of impunity. The implementation of a culture of protection also requires that attacks against civilians be recognized as crimes and that those guilty be punished. The Security Council and Member States bear a special responsibility, requiring them to ensure that those who perpetrate crimes against civilians participating in United Nations operations are brought to justice. In that connection, we vigorously support efforts to extend the scope of the Convention on the Safety of United Nations and Associated Personnel so that civilian personnel employed in United Nations operations will enjoy the protection provided by the Convention.

(*spoke in English*)

In conclusion, Canada, Australia and New Zealand urge the Council to give full consideration to the report before it and to respond quickly to those areas identified for follow-up. In that regard, we call on the Council to consider adopting a new resolution on the protection of civilians in armed conflict — one that will be aimed at addressing gaps in the current agenda. Canada, Australia and New Zealand will remain actively engaged and supportive of those efforts.

Ultimately of course, Member States themselves must take primary responsibility for ensuring the protection of their own people. Indeed, as argued in the recent report of the International Commission on Intervention and State Sovereignty, entitled *The Responsibility to Protect*, this is a responsibility implicit in the very concept of State sovereignty. Much more can and should be done by Member States. But when they fail to assume their responsibility, the Security Council must act. It is evident that the Council can and must do more.

This morning, the Emergency Relief Coordinator reminded us of the international community's failure to exercise our collective responsibility to protect civilians in Rwanda a decade ago. Clearly, much work remains to be done to ensure that a similar tragedy will never happen again. The Council will ultimately be judged on its ability to prevent such circumstances and to protect the most vulnerable. It is a challenge that we simply must meet.

**The President**: I now give the floor to the representative of Liechtenstein.

**Mr. Wenaweser** (Liechtenstein): The report of the Secretary-General (S/2004/431) before the Council today illustrates both the significant progress that the international community has made since the adoption of Security Council resolution 1265 (1999) some five years ago and the extent to which the agreed standards and their implementation are still at odds. The 10-point platform presented by the Under-Secretary-General last December is a very good basis for advancing our efforts in that respect.

I shall limit our statement today to three points related to the platform. They all revolve around the role of international legal standards, a matter which seems to us to be of particular importance at this time.

While some time ago we shared the hope expressed by the Secretary-General that the international community was about to enter an era of the rule of international law, unfortunately, we must conclude that quite the opposite has been the case and that the standing of international law is in greater jeopardy than ever. While that is sadly the case in many areas, the effects of this trend are rarely ever more devastating than in the field of the protection of civilians. It is therefore most appropriate that the treaty event during the upcoming session of the General Assembly will be devoted to legal instruments relating to the protection of civilians. However, ratification — ideally universal — of the relevant instruments is only a first step; more than anything else, we must reverse the disturbing trends concerning application and implementation that we have witnessed in the recent past. Civilians have increasingly been bearing the brunt of the catastrophic consequences of armed conflicts, both internal and international, and we must not allow a breakdown of the internationally agreed legal standards to make their situation even more desperate.

With regard to the security of humanitarian personnel, events of the recent past have been alarming indeed. The emblems of the United Nations and the International Committee of the Red Cross — far from offering the protection they used to in what seems a distant past — have been deliberately chosen as targets of attack. Practical measures and thoughtful political decisions must constitute the core of the response to these developments, and we are grateful that the Secretariat is tackling its responsibilities in this respect with renewed determination. At the same time, legal protection must also be adequate and we are therefore grateful that the report of the Secretary-General also

speaks of the need for supplementary legal measures to expand the scope of the 1994 United Nations Convention on the Safety of United Nations and Associated Personnel. As the Chairman of the Ad Hoc Committee entrusted with this task, I am hopeful that the General Assembly will soon be in a position to make a decision on these measures, which are overdue indeed.

Combating impunity ranks rightly among the topics in the 10-point platform. We support the Secretary-General's decision to appoint a Special Adviser on the Prevention of Genocide as an expression of a practical commitment to preventing any repetition of the failure of the international community, and the Security Council in particular, with regard to the genocide in Rwanda 10 years ago. We also welcome the call of the Secretary-General for universal ratification of the Rome Statute of the International Criminal Court. This landmark achievement in the area of international law allows for the effective criminal prosecution of the perpetrators of genocide, as well as the other core crimes over which the Court has jurisdiction, in cases — and only in cases — where national judiciaries fail, for reasons of inability or unwillingness, to live up to their own responsibility to prosecute. We also share the hope expressed in the report that the Council will avail itself of the competence given to it under the Rome Statute to refer situations to the Prosecutor of the Court where the necessary requirements for such referrals are met. This would be a most effective expression of the commitment of the Council to combating impunity for the most serious crimes under international law.

If the risks that civilians are exposed to in armed conflicts have exponentially increased in the past few years due to their deliberate targeting, these risks are further compounded by the active involvement of non-State actors in such armed conflicts. Such groups must not be allowed to operate in a legal vacuum and must be held to fundamental standards with regard to granting humanitarian access, as well as other standards of international humanitarian and human rights law. This must apply not only to armed groups in a more traditional sense — that is, to independent parties to conflicts — but also to the privatized military industry, whose impact and involvement have been growing dramatically over the past few years and will likely continue to do so. Their presence and activities also carry the risk of blurring the line of distinction between civilians and military personnel, which would entail an additional element of risk for civilian populations. These issues must be addressed with resolve, in both legal and practical terms; with respect to the latter, the Security Council in particular is challenged to address these issues effectively.

**The President**: I now call on the representative of South Africa.

**Ms. Ndhlovu** (South Africa): My delegation wishes to thank you, Sir, for convening this open debate on the protection of civilians in armed conflict and would also like to commend the Under-Secretary-General for Humanitarian Affairs, Mr. Jan Egeland, for a useful, comprehensive and constructive briefing on the Secretary-General's report.

My delegation welcomes and supports the focus in the Secretary-General's report on the value of addressing the regional character of protecting civilians, together with the important aim of building capacity within regions to ensure the continued protection of civilians. The Secretary-General's specific appeal for the establishment of a framework for the United Nations to engage with regional organizations on a more systematic basis on humanitarian issues related to protection is therefore strongly supported.

My delegation would, however, like to emphasize the need for regional and subregional bodies to be closely involved from the earliest stages, not only in efforts to address the humanitarian needs of civilian populations caught up in armed conflict situations, but also in efforts to provide early warning of potential conflicts, conflict resolution and mediation initiatives before conflict commences.

We further believe that the Secretary-General's endeavours to strengthen inter-agency coordination within the United Nations system in an effort to promote a system-wide approach in addressing the issues of the protection of civilians are worthwhile, since every agency brings distinctive skills and expertise to each specific situation.

The continued engagement of the international community is critical when addressing the issue of the protection of civilians in armed conflict so as to ensure the necessary political support and other resources. General Assembly resolution 46/182, amongst others, highlights the important value that humanitarian

assistance should be provided in accordance with the principles of humanity, neutrality and impartiality and consequently that assistance should not be given based on geopolitical considerations.

We are therefore convinced that the international community must continue to address and condemn the disturbing trend of increased attacks on humanitarian workers who facilitate humanitarian access to civilians. In this regard, it is critical to ensure the continued commitment of Governments to prosecuting perpetrators of these heinous acts, but also to ensure that local communities are involved in the planning of United Nations activities.

One of the most pressing humanitarian crises in the world today is taking place in the occupied Palestinian territories, including East Jerusalem, where Palestinian civilians continue to suffer the daily humiliations and restrictions brought about by an illegal foreign occupation. They also bear the brunt of ongoing, disproportionate and excessive use of force by the Israeli military. In the Gaza Strip town of Rafah, 45 Palestinian civilians, including 10 children, were killed and a further 200 people wounded by the Israeli army between 13 and 24 May 2004. Hundreds of homes and shops were demolished and agricultural land was destroyed ahead of a proposed withdrawal of Israeli forces from the Gaza Strip. We trust that the United Nations will intervene to ensure that the Palestinian people receive the humanitarian assistance they need to reverse this damage.

The suggestion of the Secretary-General that a study be commissioned on how to improve modalities for monitoring and reporting cross-border issues in crisis and post-conflict situations is noted. It is hoped that such a study will be done by consulting all relevant role-players. In this regard, stronger consultations with subregional organizations, such as the Economic Community of West African States and the Southern Africa Development Community, as well as regional institutions, such as the Peace and Security Council, which is part of the New Partnership for Africa's Development, become essential. However, initiatives aimed at the protection of civilians and humanitarian assistance at the subregional and regional levels should not lead to an abdication of the responsibilities of the United Nations system, but should be carried out in partnership with those regional mechanisms.

Addressing the specific protection needs of women and children remains an important matter for the United Nations system. The important steps of involving women in all aspects of peace-support operations and of appealing to personnel-contributing countries to ensure adequate training of personnel as to the specific needs of women and children, prior to deployment, is welcomed and supported.

My delegation looks forward to the report of the Under-Secretary-General for Humanitarian Affairs on an enhanced monitoring and reporting framework, scheduled for December 2004, which will provide a more empirical basis for reviewing emerging challenges to humanitarian action and their impact on the protection of civilians. We would urge that consultations with Member States in that regard be held on an inclusive basis.

Recognizing that the emergence of these new challenges demands that the international community should actively and collectively address these issues, my delegation hopes that this will be done in a way that increases respect for the principles of international humanitarian law, human dignity and the legitimacy of the United Nations.

**The President**: I give the floor to the representative of Malaysia.

**Mr. Rastam** (Malaysia): My delegation joins others in congratulating you, Sir, on your assumption of the presidency of the Security Council for this month. We also wish to pay tribute to your predecessor, the Permanent Representative of Pakistan, for his stewardship of the Council last month.

I wish to thank you, Mr. President, and members of the Council for having convened this public debate on the important issue of protection of civilians in armed conflict. I also thank and congratulate the Under-Secretary-General for Humanitarian Affairs, Mr. Jan Egeland, for his presentation of the comprehensive report of the Secretary-General to the Security Council on the protection of civilians in armed conflict, which examines the issues outlined in earlier reports and resolutions of the Council.

In that regard, my delegation is encouraged by the report, which has identified specific ways in which performance in the protection of civilians can be further improved. This examination will give rise to further discussions that should assist the Council and

the other principal organs of the United Nations -- the General Assembly and the Economic and Social Council — in reaching a consensus on the issues at hand.

The alarming increase in the number of civilians caught up in armed conflicts is cause for concern for the international community. Civilians have been displaced and are struggling to survive in harsh conditions. Many have been killed or subjected to extreme human rights violations, including rape and sexual violence. In Iraq, the increasingly serious threats to security and the continued fighting have resulted in more civilian deaths and injuries. Civilian detainees have been subjected to torture and to other serious violations of human rights and international humanitarian law. The continued deterioration of the situation in the occupied Palestinian territories, including East Jerusalem, as a result of escalating violence and military attacks, as well the blatant disregard of international law by Israel, has caused civilian deaths and sufferings.

In these conflicts, women, children, the aged and the infirm continue to be the most vulnerable groups. They constitute some 90 per cent of conflict casualties around the world. This is a deplorable development. Such inhumane acts committed against those groups are unacceptable and must be condemned in the strongest possible terms. The perpetrators of these criminal and cruel acts must be brought to justice to put an end to the culture of impunity that is so pervasive in so many areas of armed conflict around the world.

My delegation believes that the protection of civilians in armed conflict should be all-encompassing. The affected civilians should not only be assured of their physical security in situations of armed conflict but also be provided with legal protection under international law. This point is underscored by the Secretary-General in his report. There are in existence a number of international instruments and conventions that provide the legal basis for the protection of civilians. It is important that the perpetrators of war crimes and crimes against humanity be made accountable for their actions and face the full penalty of the law even after the conflict is over. The international community must collectively demonstrate its resolve to punish those responsible.

My delegation reiterates its condemnation of the direct attacks on United Nations staff and other humanitarian personnel in Iraq, particularly the bombings of the United Nations and International Committee of the Red Cross (ICRC) headquarters in Baghdad on 19 August and 27 October 2003, respectively. The killing of 27 United Nations staff members and the assault on more than 426 others mark a disturbing trend of disregard for humanitarian principles and a deliberate targeting of humanitarian workers for political or tactical purposes. The perpetrators of such attacks must be held accountable, as affirmed in Council resolution 1502 (2003) of 26 August 2003.

My delegation is concerned over the continuing obstructions placed against humanitarian access to people in need of food, water, shelter and medical care in conflict situations. The statistics are far from encouraging, in Africa and elsewhere. In the occupied Palestinian territories, humanitarian assistance for 3.5 million civilians has been severely affected following the construction of the wall by Israel. This has had a profound humanitarian impact on civilians by separating the inhabitants of Palestinian communities from their jobs and markets and severely limiting their access to food, water and power supplies and essential social services, including schools and hospitals.

I urge the Council to take effective measures to protect the Palestinian civilians, who have long suffered under harsh and brutal Israeli occupation. The Council has to agree that the protection of Palestinian civilians forms the very essence of the question addressed by the Council today, given its longstanding nature.

The protection of civilians in armed conflict requires a comprehensive approach on the part of the international community, including through regional approaches. It also requires coordinated and concerted efforts on the part of all concerned — Governments, the parties in conflict, peacekeepers, United Nations humanitarian workers, and the personnel of other international relief agencies and non-governmental organizations. They are indispensable partners in the field. While performing its own specialized duties, each plays a supportive and reinforcing role in ensuring the physical, legal and psychological protection and well-being of the hapless civilians caught up in the trauma of armed conflict.

The observations made by the Secretary-General in his report must be seriously attended to in order to

strengthen the mechanisms already agreed in the past by the Council for the protection of civilians in armed conflict. Malaysia fully supports the emphasis on reaffirming the commitment to the principles of international law based on justice, the peaceful settlement of disputes and respect for human dignity.

**The President**: I give the floor to the representative of Myanmar.

**Mr. Kyi Tun** (Myanmar): At the outset, allow me, Sir, to congratulate you on your assumption of the presidency of the Council for this month. I wish to thank you for giving me the opportunity to participate in this open debate on such an important issue.

I would like to join preceding speakers in expressing our thanks to Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs, for his comprehensive briefing on protection of civilians in armed conflict as well as for his dedicated efforts to further promote a culture of protection.

Armed conflicts breed a cycle of violence and bring untold suffering to innocent civilians in many parts of the world. It is most regrettable that even United Nations staff and humanitarian workers fall victim to armed conflict. Given the gravity of the humanitarian impact of armed conflict, my delegation appreciates the proposals and initiatives put forward by the Office for the Coordination of Humanitarian Affairs to better protect civilians in armed conflict, particularly at a time when humanitarian challenges are becoming more complex.

The restriction of humanitarian access to innocent civilians in some conflict zones is one of the key issues confronting the humanitarian community today. We feel that the primary responsibility for protecting civilians lies with the Government of the country concerned and with the parties involved in a conflict. Both Governments and non-State actors must abide by international humanitarian law and must do their utmost to fulfil their obligations to protect civilians — including humanitarian and relief personnel — from harm. In that regard, the Council should take a cooperative approach to secure their collaboration in gaining improved humanitarian access and to avoid further effects on civilians.

In the view of my delegation, the best way to protect civilians in an armed conflict is to resolve the conflict's root causes and to bring the conflict to an end. In my own country, soon after we had regained our independence, we had to face numerous insurgencies, with all their negative consequences, for more than 40 years. Until a few years ago, there were 18 insurgent groups in Myanmar, and our country and its people suffered. However, owing to the Government's national reconciliation endeavours, 17 insurgent groups came back into the legal fold. We were also able to forge a ceasefire agreement with the last remaining armed group, the Karen National Union.

As a result, we were able to end the armed conflict successfully, and peace and stability now prevail throughout the country. The armed groups that came back into the legal fold are now working together with the Government for the development of their respective regions. They are also taking part in the national convention that will lay down the principles for a new constitution. Our national experience has convinced us that the most effective means to protect civilians in armed conflicts is to end the conflicts through peaceful solutions.

My delegation hopes that the Security Council will be able to further develop appropriate measures to promote the effectiveness of United Nations humanitarian work in accordance with the Charter. In conclusion, my delegation wishes to reaffirm its continued support for United Nations efforts in promoting a culture of protection in armed conflict.

**The President**: I now give the floor to the representative of Nepal.

**Mr. Thapa** (Nepal): At the outset, allow me to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. I wish to express my sincere appreciation to you for holding this open debate on the report of the Secretary-General to the Security Council on the protection of civilians in armed conflict (S/2004/431). The Secretary-General deserves our sincere appreciation for preparing that comprehensive report. My delegation would also like to thank Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs, for presenting the report this morning.

His Majesty's Government of Nepal attaches great importance to the humanitarian work that the United Nations has been doing for years. Millions of people around the world have benefited from the humanitarian assistance that has been provided to the victims of both man-made and natural disasters.

Nepalese people who have been affected by natural calamities have also received humanitarian assistance from the United Nations and from other donor communities at various times.

A violent attack on innocent civilians by illegal armed groups, with an easy escape from the arms of the law, is a common phenomenon of armed conflict in the contemporary world. The situation is compounded by the fact that, more often than not, these groups — for a variety of reasons — do not come under scrutiny. Innocent civilians very often must lend their support to such groups at gunpoint, and those who stand in the way are subjected to mutilation, killing, rape or torture in full view of the public. In most cases, these groups also resort to such inhuman methods as forcing the kith and kin of the victim to be fed the victim's flesh. We are also concerned about the use and exploitation of refugee status by illegal armed groups in various parts of the world, as a result of which socio-economic and peace and security situations have been further aggravated.

The international community could significantly reduce the number of armed conflicts if it engaged in preventive diplomacy to address the issues of poverty and exclusion well before they escalate into conflict. Nepal has consistently supported the view that the General Assembly and the Economic and Social Council should play a much more effective and enhanced role for the protection of civilians in internal conflicts.

With regard to the 10-point platform for action, my delegation appreciates the efforts of the Secretary-General in preparing that proposal. We also subscribe to the view that, in humanitarian assistance, priority must be accorded to the work of protecting the civilian population, especially women, children and other vulnerable groups.

The delegation of Nepal shares the view that any humanitarian assistance provided by the international community to a particular country to address suffering — be it occasioned by natural disaster or by man-made disaster — should be provided only with the consent of the State concerned and in accordance with the Charter of the United Nations. Efforts to gain access to illegal armed groups should in no way infringe on the principle of State sovereignty.

Nepal is concerned over the increased attacks against United Nations humanitarian personnel in the field, and we strongly support efforts to ensure their safety and security. Nepal is a party to the 1994 Convention on the Safety of United Nations and Associated Personnel, and is actively taking part in the ongoing efforts in the Sixth Committee of the General Assembly to broaden the scope of that Convention.

His Majesty's Government of Nepal is committed to protecting the lives and property of civilians. We would like to assure the Council that, for our part, we will spare no effort to bring to justice the perpetrators of crimes.

**The President**: I now give the floor to the representative of Ecuador.

**Mr. Gallegos Chiriboga** (Ecuador) (*spoke in Spanish*): Permit me at the outset to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. Your diplomatic skill and great experience are a guarantee of your beneficial work within this United Nations organ. In addition, my delegation wishes to thank Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, for presenting this morning the objective and substantive report of the Secretary-General to the Security Council on the protection of civilians in armed conflict (S/2004/431).

I am grateful for the opportunity given my delegation to address this important United Nations organ and to express our concerns and our views on one of the most momentous problems afflicting the international community. Undoubtedly, this problem is most appalling and abhorrent, because it reflects conduct that is absolutely foreign to humanity's most basic ethical and moral principles and that is diametrically opposed to all considerations and principles established by humanity throughout the centuries as the basic premises of civilized coexistence. Among them, we must give priority to respect for life, for human dignity and for the rights that belong to and protect men and women, children and the elderly, prisoners, displaced persons and refugees — in short, every member of the human race — in times of peace and in times of war. This momentous problem, which the international community must face urgently, firmly and enduringly, relates to the situation of civilian populations in armed conflicts, who suffer the worst and most unimaginable atrocities, which are revolting to human dignity and to the human conscience and rend the social fabric of nations.

Until recently, wars and conflicts took place mainly between States, which to some extent observed

international law and international humanitarian law — with exceptions, of course. However, internal conflicts have now proliferated all around the world, but mainly in the developing world, with total disregard and disrespect for international law. They are tragic, and they prey on populations, societies, cultures and the future of many nations, subjecting women and children to violent atrocities by recruiting them for evil commercial and economic interests, mainly foreign, by breaking up entire families and by destroying the fundamental nucleus of any society — the family. Even worse, all these atrocities are committed primarily in nations whose people during a great part of their history have faced merciless enemies like hunger, poverty and unsanitary conditions while being mere spectators of the devastation of their natural resources by outside forces.

It is time for the international community and the United Nations to show strong political will and attach the highest priority to facing, mitigating and, whenever possible, eliminating all atrocities that every day drown entire societies in pain and despair in full view of the distant and impassive eye of those who have the power to stop them and to end the rampant impunity of their authors.

The report of the Secretary-General on the protection of civilians in armed conflicts, contained in document S/2004/431, is eloquent and reveals a tragic reality. Its contents must shake the collective conscience of the international community, especially of States that, although they are in a position to make a timely and significant contribution to the financing of United Nations stabilization, peacekeeping and humanitarian assistance operations, do not do so. They ignore the fact that, in zones where armed conflict occurs, human lives are lost every day, and every day the whole international legal system is further damaged and debilitated.

Could it be that Chapters V, VI and VII of the Charter are not enough to ensure rapid and effective United Nations and Security Council action to maintain international peace and security and impose the rule of international law? Or could it be, perhaps, that political interests of various sorts have more weight than the legal system whose formulation and adoption cost the international community of nations so much effort?

The Secretary-General states very clearly in his report that,

> "In the five years since the framework to strengthen the protection of civilians in armed conflicts was initiated, the system of public international order has been under unprecedented pressure",

and that

> "... multilateral approaches to peace and security have been challenged. Greater public and international awareness of the Geneva Conventions on the conduct of war and the Additional Protocols thereto has not been translated into action. In the 18 months since the issuance of my last report, the very fundamentals of international humanitarian law and human rights have been under great pressure and there are concerns that counter-terrorism measures have not always complied with human rights obligations." (*S/2004/431, para. 57*)

To that end, Ecuador welcomes the Secretary-General's decision to appoint a Special Adviser on the Prevention of Genocide in order to provide the Organization with a better early warning system in situations that cause concern and to improve the basis of action of the United Nations. At the same time, it supports his call to ensure that "large-scale or systematic international crimes do not go unchallenged and are prevented or stopped as early as possible" (*para. 39*).

Ecuador also agrees with his statement that "The need for reconciliation in post-conflict situations must be tempered with a clear commitment to ending impunity for serious violations of international humanitarian law and human rights law" (*para. 55*).

It is up to the Security Council, in accordance with its mandate under the Charter of the United Nations and with the commitment undertaken on the elements of the 10-point platform that the Under-Secretary-General for Humanitarian Affairs presented to the Council in December 2003, to strengthen the protection of civilians in armed conflicts. Otherwise, the whole international legal framework could be derailed and violence and discrimination could spread all over the world, not only for ethnic, racial, religious, cultural or political reasons, but, above all, because of the hunger, poverty and despair of the population of three fourths of the world.

Let us be consistent and act in accordance with the highest ideals that led the States Members of the

Organization to endorse the Charter. We the peoples of the United Nations should strengthen international instruments, broaden the scope of their application and find suitable mechanisms to ensure that those legal instruments bind not only the States members of the international community but also the irregular groups that use, exploit and commit atrocities against human beings and civilian populations. Let us repudiate the participants in conflicts who violate moral and ethical principles and the legal norms related to civilian populations.

**The President**: I call next on the representative of Côte d'Ivoire.

**Mr. Djangone-Bi** (Côte d'Ivoire) (*spoke in French*): The delegation of Côte d'Ivoire wishes first, through me, to express heartfelt congratulations to you, Sir, on your assumption of the presidency of the Security Council and its sincere best wishes for success. We also thank you for including our delegation in today's debate on the sensitive and important subject of the protection of civilians in armed conflict.

The Secretary-General has recently issued, once again, an edifying report (S/2004/431) on this item, eloquently presented by Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs, in his introductory briefing. We thank them both for persevering in their noble effort to keep the Council and Member States focused on this issue, safeguarding which is a basic component of international peace and security.

As a party to the Charter and the Geneva Conventions, as well as all other international instruments relative to international humanitarian law, human rights and refugee rights, Côte d'Ivoire, a country with a long-standing tradition of hospitality and despite the vicissitudes of its recent history, has always upheld the protection of the lives and the property of its people and its visitors. As it says in our national anthem, in peace, freedom is restored. Ivorians feel the unshirkable duty of conscience to persevere in their noble ambition to forge, united in their new faith, a homeland of genuine brotherhood, and, as the national anthem also says, to be a model of mankind's promised hope.

The treacherous war that has been imposed on Ivorians since 19 September 2002 serves only to confirm that obligation, and the international community, headed by the Security Council, remains mobilized in contributing to the resolution of this crisis.

Moreover, the crisis and the concrete assistance provided by United Nations Member States have also provided Ivorians with some lessons, some of which I would like to share with Council members within the context of this debate on the protection of children in armed conflicts.

The most common armed conflicts of recent decades have been defined as internal. They generally pit States against armed groups made up mostly of national and foreign mercenaries. Even in a worsening domestic security situation following the outbreak of conflict, States are bound to respect and to implement the conventions and treaties relative to the protection of civilians in armed conflict to which they are parties. But the same does not seem to be true for rebel groups. That asymmetry is problematic, and I believe it requires of the United Nations and the Security Council prompt humanitarian intervention, which I would categorize as being for maintenance and restoration, when conflict breaks out, as called for by the Secretary-General.

It seems to me that we must then proceed to the determined implementation of the action plan, of which the Council adopted an updated version on 15 December 2003 (see S/PRST/2003/27). Finally, we need to take and strengthen effective measures and approaches for the prevention of armed conflict, for which the Secretary-General has been calling for almost six years. Even if international criminal tribunals do eventually provide justice to civilian survivors of such conflicts, they cannot bring back the dead or make the physically and psychically handicapped whole again. We are all familiar with the popular and universal saying that an ounce of prevention is worth a pound of cure.

After armed conflicts, the sustainable protection of civilians must be integrated judiciously into post-conflict reconstruction, carried out and gradually achieved in conjunction and long-term harmonization with the relevant comprehensive actions and resources of States and the international community, and always proportionate to need. The strategy of political, economic and social post-conflict reconstruction must include a cultural, civic and ethical dimension as a fundamental component, rather than as a mere

ritualistic afterthought. The overall costs of these substantial measures are so high and their effects are of such unproven social utility and duration that they recall us to our fundamental obligation to prevent armed conflict.

Implementing all the measures articulated by the Secretary-General in his memorable report of 7 June 2001, contained in document S/2001/574, which member States have always collectively supported in this Chamber, could make a positive contribution to conflict prevention. The safeguarding of international peace and security, more than its mere effusive promotion, is the highest priority accorded to the Security Council in the United Nations Charter by "we the peoples" and requires a vigorous and voluntary conflict prevention programme wisely wedding collective actions to scrupulous respect for State sovereignty.

**The President**: I shall now give the floor to Mr. Egeland to respond to the comments raised.

**Mr. Egeland**: I am very grateful for the continued support that members of the Security Council and other member States have expressed throughout today's debate on the protection of civilians. This debate has underlined the importance of mainstreaming protection, providing a clear focus for future action and addressing some of the critical gaps in implementation.

Time does not permit my going into all the important proposals made by speakers today. Let me address only a few points.

The issue of engagement with non-State armed groups is, as many Council members have said, a sensitive and complex one. In situations of armed conflict, Governments clearly bear the primary responsibility to provide humanitarian access, to protect civilians and to cooperate with humanitarian agencies. But it is equally clear that there are situations in which Governments alone do not have the capacity to fulfil this responsibility, and consequently the lives and welfare of their civilians are at risk. Where non-State armed groups control or influence access to populations in need of humanitarian assistance and when non-State armed groups actively target civilians, the humanitarian imperative may demand our engagement with them, as when we facilitated the humanitarian ceasefire in Darfur between Government and rebels — an agreement that was mediated by the Government of Chad.

Clearly, any engagement with non-State armed groups must be aimed solely at providing protection and humanitarian assistance to civilians living in areas under their control and must be conducted transparently, neutrally and impartially in a manner that does not in any way legitimize the armed groups concerned. Just as the impartiality and neutrality of humanitarian organizations must be respected by parties to conflict, humanitarian organizations themselves must act in a manner that is above reproach in this regard.

*(spoke in Spanish)*

As was just noted by the representative of Colombia, I was recently in his country and had very constructive meetings with the Government on the matter of humanitarian assistance and access there.

*(spoke in English)*

The representatives of several delegations addressed the situation of civilians in the occupied Palestinian territory. I can only reiterate that the violence against civilians in the occupied Palestinian territory and the profound constraints on their lives imposed by the construction of the barrier in the West Bank are issues of grave humanitarian concern, as I said in my opening statement this morning. The attacks in the Rafah refugee camp last month shocked us all. International humanitarian law obviously applies to the situation in the occupied Palestinian territory. In this context, I thank the representative of Pakistan for recalling the Secretary-General's emphasis in his report on the fact that

> "Compliance by all parties to conflict with international humanitarian, human rights, refugee and criminal law is critical in all of these situations, whether they are situations of armed conflict, occupation or transition". (*S/2004/431, para. 3*)

I particularly welcome the unanimous concern expressed in the debate over the issue of sexual and gender-based violence against women and children and the recognition of the need for measures to deal more effectively with this problem. I welcome the support expressed for police- and troop-contributing countries to take measures that will ensure the investigation and prosecution of alleged offenders of sexual exploitation

and abuse, in line with the Secretary-General's bulletin and the current practice of international staff.

I wish to thank Council members for their valuable proposals for moving the protection of civilians agenda forward. I wish to acknowledge the proposal of the representative of Germany that, in addition to the six-monthly briefings on the protection of civilians, the Security Council receive ad hoc briefings from me, as Emergency Relief Coordinator, when grave threats to the protection of civilians in particular situations require it.

*(spoke in French)*

I welcome the proposal made by the representative of France that the system of cooperation established in response to the Darfur crisis between the Security Council, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and the Office for the Coordination of Humanitarian Affairs should serve as a model for other complex emergency situations.

*(spoke in English)*

The representative of the United Kingdom confirmed the need for clearer mechanisms to support systematic and precise monitoring and reporting from the field on protection of civilians issues. As requested, we will provide an outline for such a mechanism in my next briefing to the Council in December. Several Council members stressed the need to make better use of the aide-memoire. This we see as central to delivering on the protection of civilians in the future.

*(spoke in Spanish)*

I welcome the support expressed by several members of the Security Council and other member States for a new resolution on protection of civilians in armed conflict. I welcome in particular the message that the next resolution will impose a greater obligation on member States. As the representatives of the United Kingdom, Chile, Germany, France and others have noted, such a resolution should include a strategy enabling us better and more effectively to protect civilians. We must be as strongly committed, innovative and flexible as possible and use a variety of protection mechanisms, some of which already exist while others will be new.

*(spoke in English)*

In addition to its work with the Security Council, the Office for the Coordination of Humanitarian Affairs will continue to promote this framework with other appropriate organs of the United Nations, as well as work closely with regional bodies and specific member States. The renewed commitment of the Security Council to acting collectively and decisively to protect civilians trapped in situations of armed conflict is needed now more than ever, and we look forward to working closely in this endeavour and to seeing a new resolution from the Council on this.

**The President**: There are no further speakers inscribed on my list. The Security Council has thus concluded this stage of its consideration of the item on its agenda.

*The meeting rose at 5.40 p.m.*